

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
Case No. 1:07-CV-953**

RYAN McFADYEN, <i>et al.</i>	)	<b>MOTION BY DNA SECURITY, INC. AND RICHARD CLARK TO DISMISS SECOND AMENDED COMPLAINT</b>
	)	
Plaintiffs,	)	
	)	
v.	)	
DUKE UNIVERSITY, <i>et al.</i>	)	
Defendants.	)	
	)	

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Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants DNA Security, Inc. and Richard Clark (“Defendants”) respectfully move the Court to dismiss the Second Amended Complaint against these Defendants for failure to state a claim upon which relief can be granted and because affirmative defenses bar the claims of the Plaintiffs.

In support thereof and pursuant to this Court’s February 16, 2010 Order [Docket No. 135], Defendants incorporate by reference their previously-filed Brief in Support of Motion to Dismiss [Docket No. 60], Reply Brief in Support of Motion to Dismiss [Docket No. 100], and Supplemental Brief in Support of Motion to Dismiss [Docket No. 121]. For those reasons, Defendants respectfully request that the claims against them be dismissed.

Respectfully submitted this, the 12<sup>th</sup> day of March, 2010.

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 12, 2010, I caused the foregoing **MOTION BY DNA SECURITY, INC. AND RICHARD CLARK TO DISMISS SECOND AMENDED COMPLAINT** to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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